

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20054**

In the Matter of

REQUEST FOR REVIEW BY AT&T INC.)	
OF DECISION OF UNIVERSAL SERVICE)	WC Docket 03-109
ADMINISTRATOR)	

**COMMENTS OF THE
INDEPENDENT TELEPHONE & TELECOMMUNICATIONS ALLIANCE**

To the Commission:

The Independent Telephone & Telecommunications Alliance (ITTA) hereby submits comments in the above-captioned proceeding. ITTA members are mid-size local exchange carriers that provide a broad range of high-quality wireline and wireless voice, data, Internet, and video services to 26 million customers in 44 states. AT&T Inc. seeks review of a Universal Service Administrator decision that AT&T is required to populate Line 9 of Form 497 with partial or pro-rata dollars attributable to Lifeline subscribers who enter or exit the Lifeline program during any given month, even if AT&T does not seek partial or pro-rated payment from the Universal Service Administrative Company (USAC).¹ ITTA supports AT&T's position that population of Line 9 is not mandatory for carriers not seeking partial or pro-rated Lifeline dollars from USAC.²

¹ See, Request for Review by AT&T of Decision of the Administrative of the Universal Service Administrator, WC Docket No. 03-109 (filed Jan. 7, 2008) (AT&T Petition).

² ITTA notes that Qwest Communications International, Inc., has filed a petition that includes a similar request for review. See, Request for Review by Qwest Communications International, Inc., of Decision of the Universal Service Administrator, WC Docket No. 03-109 (filed Apr. 25, 2008) (Qwest Petition).

The Instructions for Lifeline and Link-Up Worksheet (Form 497)³ state, in relevant part, “*If* claiming partial or pro-rata dollars, check the box on line 9” (emphasis added). Rulings that would require carriers to populate line 9 if they are *not* claiming partial or pro-rata dollars collide with the plain language of the Instruction. “If” is a conditional clause, and implies a conditional experience; the definition of “if” is “in the event that,” or “on condition that,” or “whether.”⁴ The word means and implies a possibility, stipulation, or condition.⁵ Implicit in use of the word “if” is the alternative of “if not;” *i.e.*, “if A, then B; if not A, then not B.” The Administrator’s decision that would require population of line 9 regardless of whether partial or pro rata amounts are claimed ignores the meaning of the word “if” and deprives the Instructions of their meaning by ascribing to an optional alternative a mandatory action.

The “plain language” analysis aside, the procedural history of Form 497 supports the proposition that carriers are not required to populate line 9 if they are not seeking partial or pro-rata Lifeline amounts. As described by AT&T,⁶ the Commission previously considered, and then suspended indefinitely, a proposed requirement that carriers to report Lifeline data on a partial month basis.⁷ Ultimately, after two delays, the

³ FCC 497 Instructions (Oct. 2000) (http://www.universalservice.org/res/documents/li/pdf/497i_Oct2000.pdf) (last viewed May 2, 2008).

⁴ American Heritage Dictionary, Second College Edition, Houghton Mifflin Company (Boston, New York 1991).

⁵ *See, id.*

⁶ *See* AT&T Petition at 3.

⁷ *See*, “Wireline Competition Bureau Announces Effective Date of Revised Form 497 Used to File Low Income Claims with USAC,” Public Notice DA 04-3016, WC Docket No. 03-109, (Sep. 21, 2004); “Wireline Competition Bureau Announces **Delayed** Effective Date for Revised Form 497 Used for Low-Income Universal Service Support,” Public Notice DA 04-3188 (rel. Oct. 4, 2004) (emphasis added); “Wireline Competition Bureau Announces **Delay** of Effective Date for Revised Form 497 Used for Low-

Bureau announced that it “now delays the effective date of the revised Form 497 until further notice. Eligible telecommunications carriers seeking reimbursement for low-income universal service support must continue use [sic] the old Form 497.”⁸ There exists no currently effective requirement for carriers to report partial month Lifeline data. Accordingly, there can be no requirement to always populate line 9, which is populated only when reporting partial month data.

From an operational standpoint, it is not clear that a system capable of capturing partial month data, with all of its varying permutations, could be created in a manner sufficiently efficient to justify its expense. For example, carriers may utilize multiple billing cycles that are calibrated to bill or credit consumers for service one month in advance. A survey within ITTA revealed that although these systems credit appropriately for mid-month Lifeline entry or exit, the ability to cull all bills and sum the total of partial month Lifeline data would be contrary to the design specifications of those programs, and the reformulation of those programs would be significant and costly. Moreover, and as described by AT&T, the effect of late entry Lifeline subscribers for whom support is claimed is balanced by the subscribers who exit the program mid-month and for whom, on the basis of end-of-month reporting, no support is claimed. In fact, Qwest, in its Request for Review, notes that its analysis revealed that Lifeline reimbursements from USAC were less than the Federal Lifeline support that Qwest has provided to eligible subscribers.⁹

Income Universal Service Support **Until Further Notice**,” Public Notice DA 05-604, WC Docket No. 03-109 (rel. Mar. 4, 2005) (2005 Public Notice) (emphasis added).

⁸ 2005 Public Notice.

⁹ Qwest Petition at 4; *see, also*, AT&T Petition at 4.

The plain language of the Instructions does not support the Administrator's decision; the procedural history of the matter presents that the Commission has not imposed a requirement to report partial month data; the net effect of complete month reporting appears to replicate the results that would be obtained by partial month reporting; and, it is not clear that compliant billing systems could be implemented in a suitably efficient manner. Accordingly, and for the reasons stated above, ITTA urges the Commission to confirm that there is no obligation to populate Line 9 where partial or pro-rata Lifeline reimbursement is not claimed, and to overturn any Administrator decisions to the contrary.

Respectfully submitted,

s/Joshua Seidemann

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